

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

MOBERN ELECTRIC CORPORATION

Employer,

and

Case 5-RC-15401

TEAMSTERS LOCAL UNION No. 570,
a/w INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held on May 29, 2002 before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record, the Regional Director finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. Modern Electric Corporation [the Employer] is a Maryland Corporation having its main place of business in Laurel, Maryland. The Employer is engaged in the manufacture and non-retail sale of lighting fixtures. During the past 12 months, a representative period, the Employer in conducting its business operations, purchased and received at its Laurel, Maryland facility goods valued in excess of \$50,000 directly from points outside the State of Maryland. The parties stipulate, and I find, that the Employer is engaged in commerce within the meaning of the Act.

Teamsters Local Union No. 570, a/w International Brotherhood of Teamsters, AFL-CIO (Union or the Petitioner) filed a petition on May 13, 2002, seeking to represent all full-time and regular part-time production employees, drivers and warehouse employees, excluding all supervisors, management, office employees, maintenance and guards as outlined in the Act. The parties stipulated, and I find, the appropriate unit to be the following:

All full-time and regular part-time production, maintenance, and warehouse employees and truck drivers employed at the Employer's Laurel, Maryland facility, excluding all office clerical employees, professional employees, temporary employees referred from temporary employment agencies, sales employees, guards and supervisors as defined in the Act.

There are approximately 30 employees in the stipulated unit. There is no history of collective bargaining between the parties for these employees.

At the hearing, the Employer presented as its witnesses Assembly Supervisor Keith Robinson and Operations Manager Diane Kaler. The Petitioner presented as its witnesses Line Leaders Pearl Watson and Cornelia Jenkins.

ISSUES

There are two issues in this proceeding: 1) whether the Assistant to the Assembly Supervisor is a statutory supervisor under the Act; and 2) whether the six Assembly Line Leaders are statutory supervisors under the Act.

After full consideration of the record and the parties' briefs, I find, for the reasons set forth below, that the Assistant to the Assembly Supervisor is not a supervisor and is appropriately included in the unit. I further find that the Line Leaders are supervisors under the Act, and are therefore excluded from the bargaining unit.

POSITIONS OF THE PARTIES

1. Status of Assistant to the Assembly Supervisor. The Union asserts that the Assistant to the Assembly Supervisor [Assistant AS] is a statutory supervisor who should be excluded from the unit, because he has the authority to responsibly direct others when he fills in for the Assembly Supervisor. The Assembly Supervisor oversees approximately 30 assembly employees, including the Line Leaders.

The Employer's position is that the Assistant AS is not a supervisor under the Act, and is properly included in the unit. The Assistant AS is primarily responsible with supplying parts for the teams working the assembly lines, and he continues in this function even when he is ostensibly "left in charge" in the absence of the Assembly Supervisor. When the Assistant AS is in charge, which is rarely, he implements a work plan previously defined by the Assembly Supervisor, and he waits until the Assembly Supervisor comes back to resolve any problems or make necessary supervisory decisions that may have been presented.

2. Status of Line Leaders. The Union's position is that the Line Leaders are classic lead people as the Board has historically interpreted that term. Therefore, the Line Leaders are production and maintenance employees properly included in the unit. The Union asserts that the opinions Line Leaders have about workers on their teams do not translate into effective recommendations to fire or hire, that the evaluations the Line Leaders complete do not have any meaningful, measurable effect on decisions about compensation for employees, that Line Leaders' direction of others' work is of a routine, perfunctory nature, and that Line Leaders have no direct authority to hire, fire, demote, lay off or recall.

The Employer's position is that the Line Leaders are statutory supervisors under the Act and should be excluded from the unit, because they meet three of the primary indicia for a supervisor: a) Line Leaders effectively recommend that temporary employees be terminated, as well as effectively recommend that temporary workers be hired as permanent employees; b) Line Leaders evaluate the assembly workers on their teams, and the evaluations are given dispositive weight in determining bonuses and raises; and c) Line Leaders responsibly train and direct others in the performance of their work.

SUMMARY OF FACTS

The Employer produces fluorescent light fixtures, operating out of a facility in Laurel, Maryland. Its main operations includes several departments: Assembly, Metal, Shipping, Receiving, and Delivery. Each of these departments has a supervisor. In the largest department, Assembly, six assembly lines are supervised by Production Supervisor Keith Robinson. Robinson oversees production and gives each of the assembly lines a plan each day for assembling the light fixture(s) they are assigned. The assembly line work is of a routine nature, and daily production quotas are set for each line.

An Assistant to the Assembly Supervisor, Jackie Miles, is assigned to help Robinson. Miles' primary responsibility is to fetch materials for each of the assembly lines to assemble the various types of fixtures. Each assembly line has a light associated with it. When the light is turned on, Miles is signaled that materials are needed for that line, and he goes and retrieves them. Miles oversees the assembly work when Robinson is absent from the facility.

Robinson testified that he is at the facility every day except during his vacation days.¹ Robinson is on vacation approximately fifteen days a year, including a week in July when the Assembly production lines are shut down. A second week of his vacation occurs at Christmas time, when customarily the other Assembly workers also take a week's vacation. During Robinson's remaining vacation days,² when he is absent and the assembly lines are operational, Miles is ostensibly left in charge. However, during those days, Miles continues to perform his material fetching duties as usual throughout the day. If Miles faces any serious problems during this time, he takes them to Operations Manager Kaler for resolution.

The six primary assembly lines³ are worked by six people each: one feeds materials at the head of the line, four work on assembly tasks in the middle of each line (two on one side of a work area, two on the other), and a sixth person packs finished fixtures at the foot of the line. Because of the weight of the materials involved, most often the feeder and the packer are men and the middle four assembly workers are women. Each assembly line has a Line Leader, who also functions as one

¹ Robinson does not get sick days, and he testified he has not taken any days because of sickness in the last year, nor for emergencies or for jury duty.

² Besides the one week in July and the one at Christmas, Robinson usually takes another week at Christmas and a couple other miscellaneous days throughout the year.

³ The Employer also employs developmentally disabled adults to work in production and assembly, and their "sub-assembly" line, called the ARC line, is structured and supervised differently from the regular assembly lines.

of the six workers on the line. Assembly workers, including the Line Leader, work the same day shift, and take breaks and lunch at the same time. The work performance of the Line Leaders and the other assembly workers is evaluated distinctly, by different people using different forms and different criteria.

The Line Leader decides who works in which position, if such a decision needs to be made. The Line Leader also is tasked with seeing that his/her line meets production quotas, and that the assembly is proceeding correctly, including testing as needed, for any given fixture assigned. The Line Leader records production numbers and performs other perfunctory paperwork as part of his/her duties on the line. Line Leader Watson testified that about 85-90% of her time is spent doing hands-on assembly work, and the remaining 10% of her time is spent doing paperwork and miscellaneous tasks overseeing other workers.

The five workers under the Line Leader on each assembly line are a mix of temporary and permanent employees. Prior to 2001, the Employer gave permanent assembly workers raises and bonuses once a year.⁴ In determining both raises and bonuses, it asks the Line Leaders to complete evaluations for each permanent assembly worker on his/her line, and has made clear to the Line Leaders this sole purpose for the evaluations. Operations Manager Kaler testified that the evaluations are given about 90% weight in determining bonuses and raises. The last time raises and bonuses were awarded, and therefore the last time Line Leaders were asked to complete evaluations, was mid-summer 2000.

Almost all permanent workers were temporary at some point. The traditional way the Employer acquires permanent employees is by hiring temporaries and seeing how they work out during a typically 90-day temporary period. When financial constraints have precluded adding new permanent workers, as has been the case in the last year, good temporary workers have been kept for longer than 90 days.⁵ Line Leaders are the primary source of information for the Employer's hiring decision-makers regarding the compatibility and productivity of a temporary worker. Therefore, a Line Leader's recommendation to hire a particular temporary is customarily accepted and given substantial weight in considering that person. Kaler testified that she also considers the time and attendance records she has for each temporary in making a decision whether to hire someone, as well as the overall financial position of the company.

Temporaries who are not performing their jobs adequately are "released" or sent home from their assignments. As Kaler testified, the Line Leaders are the only ones that really know the level of work the temporaries do, if they follow through on tasks or not, and if they willingly take direction from their Line Leaders. A Line Leader's dissatisfaction with a temporary worker on his/her line and subsequent request that the temporary worker be sent home is almost always respected. Robinson testified that two weeks before the hearing, two temporary workers were released at the request of Line Leader Taiwo Hammed.

⁴ The Employer has not been able to give raises for almost two years due to financial constraints, but expects it will again be able to do so this coming July 2002.

⁵ One temporary worker, Ali Ali, recommended by his line leader to be hired permanently, has been working as a temporary worker for over a year.

Information about temporary workers' performance is communicated to the Employer in three ways: a Line Leader will speak with Robinson directly about his/her opinion and/or recommendation regarding a temporary worker; a Line Leader will "go over Robinson's head" and speak to Kaler; or, Line Leaders will speak up at Line Leader meetings,⁶ the primary purpose of which is to discuss the various assembly line operations, how the workers are doing, how production is going, what can be improved, what problems are arising.

SUPERVISORY STATUS

Section 2(11) of the Act, 29 U.S.C. Section 152, provides:

The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Board law establishes that Section 2(11) is to be read in the disjunctive; the possession of any one of the authorities listed is sufficient to place an individual invested with this authority in the supervisory class. Mississippi Power Co., 328 NLRB 965, 969 (1999), citing Ohio Power v. NLRB, 176 F.2d 385, 387 (6th Cir. 1949), cert. denied 338 U.S. 899 (1949). Applying Section 2(11) to the duties and responsibilities of any given person requires the Board to determine whether the person in question possesses any of the authorities listed in Section 2(11), uses independent judgment in conjunction with those authorities, and does so in the interest of management and not in a routine manner. Hydro Conduit Corp., 254 NLRB 433, 437 (1981).

Thus, the exercise of a Section 2(11) authority in a merely routine or perfunctory manner does not confer supervisory status. Chicago Metallic Corp., 273 NLRB 1677 (1985). As pointed-out in Westinghouse Electric Corp. v. NLRB, 424 F.2d 1151, 1158 (7th Cir. 1970), cited in Hydro Conduit Corp.: "the Board has a duty to employees to be alert not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied employee rights which the Act is intended to protect." See also Quadrex Environmental Co., 308 NLRB 101, 102 (1992). In this regard, employees who are mere conduits for relaying information between management and other employees are not statutory supervisors. Bowne of Houston, 280 NLRB 1222, 1224 (1986); see also Chicago Metallic, *supra*.

The party asserting supervisory status has the burden of proving the applicability of the supervisory exception. Kentucky River Community Care, Inc., 523 U.S. 706 (2001). Conclusory evidence, "without specific explanation that the [disputed person or classification] in fact exercised independent judgment," does not establish supervisory authority. Sears, Roebuck & Co., 304 NLRB 193 (1991). Similarly, it is an individual's actual duties and responsibilities that determine his or her status as a supervisor under the Act, not his or her job title or mere theoretical power to perform one of the enumerated statutory functions. Winco Petroleum Co., 241 NLRB 1118, 1122 (1979), cited in International Longshoremen's Association, v. Davis, 476 U. S. 380, 286 n. 13 (1986). See also Passaic Daily News v. NLRB, 736 F.2d 1543 (D.C. Cir. 1984).

⁶ Meetings occur irregularly now, but in the past were scheduled on an average once a month.

1. Assistant to the Assembly Supervisor.

The Union argues that the Assistant AS meets the statutory definition of a supervisor because he takes over the supervisory duties of the Assembly Supervisor in his absence. However, isolated supervisory substitution does not warrant a supervisory finding. See Latas de Alumino Reynolds, 276 NLRB 1313 (1985). The Board has stated that, where intermittent supervision of unit employees is involved, the test is whether the part-time supervisors spent a “regular and substantial” portion of their time performing supervisory duties, or whether such substitution is sporadic and insignificant. Aladdin Hotel, 270 NLRB 838 (1984). The record establishes that Miles’ involvement in responsibly directing the assembly workers’ production work is nothing more than a rare occurrence, at most two weeks of a given year. Miles’ assumption of a supervisory role occurs on those few days of the year when Robinson is on vacation and someone is needed to oversee the operation of the assembly lines. I find that Miles’ substitution for Robinson is irregular, sporadic, and insignificant, and therefore is insufficient to establish supervisory status. Carlisle Engineered Products, Inc., 330 NLRB 1359 (2000).

Further, even when Miles takes over for Robinson, he continues with his regular duties (pulling of materials for the assembly lines) for the substantial portion of his day, and his assumption of supervisory duties during that time is insignificant, for the most part implementing a work plan written up beforehand by Robinson. The Union provided no evidence that the Assistant to the Assembly Supervisor exercises more than routine judgment in covering for the Assembly Supervisor during those few days of the year when he is called on to do so. Line Leader Pearl Watson testified that when Robinson is not there, she gets no help with problems from Miles, and gets no answers to questions when she needs to know something. She tries to avoid problems and not have any questions when Miles is left in charge. Thus, I find that when Miles substitutes for Robinson, he neither possesses nor exercises Robinson’s supervisory authority. Honda of San Diego, 254 NLRB 1248, 1249 (1981).

Based on the foregoing, I find that the Assistant to the Assembly Supervisor is not a supervisor within the meaning of the Act and therefore is appropriately included in the bargaining unit, and eligible to vote in the election.

2. Line Leaders.

Line Leaders cannot directly hire, lay-off, recall, transfer, suspend, promote, discharge, reward, discipline, or adjust the grievances of other employees. Line Leaders are charged with directing the work of others on their respective lines. In addition, management draws on the Line Leaders’ knowledge of workers on their lines for two supervisory purposes: 1) decision-making regarding the permanent hiring and the discharge of temporary assembly line workers; and, 2) the determination of bonuses and wages for permanent assembly workers. Line Leaders’ verbal recommendations for hiring and/or releasing temporary workers translate into effective decisions to release or hire, albeit subject to consideration of the Employers’ financial circumstances and production needs. Line Leaders’ written evaluations of permanent workers are solicited solely for the purposes of determining bonuses and wage increases.

a) Effective recommendation to permanently hire and/or to release temporary assembly workers.

Regarding the hiring of permanent assembly workers, Robinson testified that he receives approximately one recommendation to hire from a Line Leader each month, and that he received such

a recommendation from Line Leader Evelyn Pressler the week prior to the hearing.⁷ When a Line Leader recommends someone for hire, Robinson will customarily take the recommendation to Kaler, with his own supporting comments, for discussion regarding the company's needs and the attendance record of the recommended individual. When Robinson does not act on the recommendation, Line Leaders can go above his head. Kaler testified that at least once a Line Leader, Evelyn Pressler, came to her directly with a hiring recommendation because she had not gotten results by simply talking with Robinson. Kaler also testified that almost every temporary worker hired in the last couple years was effectively recommended by his/her Line Leader.⁸

Regarding the release of temporaries, Kaler testified that she and Robinson receive from Line Leaders approximately ten to fifteen recommendations a year for release of temporary workers. Robinson testified that he is required to keep his assembly lines fully staffed, and for that reason there have been times when he has not immediately granted the request of a Line Leader to send someone home. In some instances, the Line Leader has then gone over his head to Kaler, and Kaler has then told Robinson to send the reported temporary home. Kaler testified as to one instance when this occurred, and the primary reason for the Line Leader's recommendation was that the temporary worker was not willing or able to follow the Line Leader's direction.

The determination of whether the opinion of an employee is merely forceful suggestion or effective recommendation is a fact and case-specific task. The Board in Venture Industries, 327 NLRB 918, 919 (1999), found that department and line supervisors who could recommend disciplinary suspensions and who could make effective hiring recommendations are statutory supervisors. In Biewer Wisconsin Sawmill, 312 NLRB 506 (1993), the Board found that one incident of exercise of non-routine disciplinary authority was sufficient to find supervisory status, rejecting the argument that it was a sporadic exercise of authority, given that the occasions for exercising the authority occurred rarely. Statutory supervisory status will not be found when there is evidence that recommendations only resulted in personnel action being taken after resort to individual investigation by higher authority, Children's Farm Homes, 324 NLRB 61 (1997), or when unit employees as well as alleged supervisors routinely recommended hires, World Theatre Corp., 316 NLRB 969 (1995). I find no such evidence here.

Line Leaders are charged by management with the responsibility of recommending which, if any, temporary assembly workers meet productivity criteria and should be hired as permanent employees. Their opinions with respect to the workers' day-to-day performance levels is accepted without further investigation, and only supplemented by consideration of other factors, such as time and attendance records and the company's overall financial position, in making hiring decisions. The fact that Line Leaders' only exercise this authority sporadically is not determinative, as the company hires only sporadically; the fact they possess this authority is determinative.

⁷ No recent recommendations have been accepted only because no permanent hires have been made, due to a slow down in business since September 11, 2001.

⁸ One of the two Line Leaders who testified, Jenkins, indicated she had recommended someone for hire; the other, Watson, said she had not, in part because no temporary worker under her oversight had come up to the "high standards" she wanted a permanent assembly worker to meet, and in part because she did not know she had the authority to recommend hiring someone.

Only Line Leaders recommend the release of temporary workers. The evidence establishes that these recommendations, directly related to the Employer's interest in eliminating unproductive or incompatible members from its assembly line teams, are effective. The Employer relies on Line Leaders to inform them of which temporary workers are uncooperative or unproductive. Robinson released two temporary workers two weeks prior to the hearing on the recommendation of Line Leader Hammed without further investigation. Robinson's lack of action on a particular recommendation by another Line Leader led to the Line Leader going over Robinson's head to Kaler, and resulting in Kaler telling Robinson to release the uncooperative temporary worker.

Considering all of the above, I find that Line Leaders effectively recommend the hire of employees. Although line leaders also effectively recommend the release of temporary workers referred to the Employer by one or more temporary agencies, the issue of whether the Employer jointly employs these workers was neither litigated nor raised in the parties' post-hearing briefs. In order to qualify as a supervisor, however, the individual must supervise the employees of the employer at issue. Crenulated Co., 308 NLRB 1216 (1992). Hence, I cannot find supervisory status based on this indicia.

b) Effective recommendation, through evaluations, to award bonuses to permanent employees once or twice yearly, and to determine the amounts of assembly employees' raises once yearly.

When the Employer's financial situation allows it, employees are given both bonuses and raises based on their performance. Robinson and Kaler fill out evaluation forms for the Line Leaders and in the process discuss wage increases. To determine the amounts of raises and bonuses for the other Assembly Workers on the lines, the Line Leaders fill out Assembly Evaluation Forms.⁹ Line Leaders provide both a rating and a numerical score¹⁰ on nine factors: work habits, attitude, attendance, quality, team effort, social talking, follows procedures, housekeeping, and paperwork errors (if applicable). Kaler testified that a higher score will result in a higher bonus, and a lower score will result in no bonus or a low bonus, and that the same relationship exists between the scores and wage increase amounts. Evaluation ratings and scores are determined by the Line Leaders independently of conceded supervisors and the forms are signed by the Line Leaders alone. Once the forms are completed, Operations Manager Kaler and President Robert Ball determine the actual amounts of wage increases and bonuses, according 90% weight to the evaluations in determining the amounts of bonuses and raises, and considering time and attendance factors and what the Employer can afford as well.

The Board has found that alleged supervisors whose evaluations led to wage increases automatically calculated from the evaluation score are statutory supervisors. Harbor City Volunteer Ambulance Squad, 318 NLRB 764 (1995). See also Wal-Mart Stores, Inc., 335 NLRB No. 103 (2001), where evidence of a direct link between evaluation and rate of pay increase, evaluations which were not merely "advisory and preliminary," was sufficient to find supervisory status; Bayou Manor, 311 NLRB 955 (1993), where LPNs whose annual evaluations of CNAs were directly linked

⁹ The evaluation form has been in use for at least five years.

¹⁰ A score of 90-100 is outstanding; 80-89 is very good, 70-79 is good, 60-69 is satisfactory but needing improvement, and below 60 is unacceptable.

to raises and occasional departmental bonuses were deemed supervisors; General Telephone Company of MI., 112 NLRB 46 (1955), where supervisory status was found because, even though higher level managers conducted their own investigation, the alleged supervisors' evaluation of workers was given "substantial weight." Needah Screw Machine Products, Inc., 323 NLRB 574 (1997), cited by the Union in its brief, is distinguishable, since in that case evaluations were filled out by admitted supervisors as well as leadpersons, not all leadpersons filled out evaluations, and apparently leadpersons could "shun" the evaluation task if they so chose. Highland Telephone Cooperative, 192 NLRB 1057 (1971), can be similarly distinguished, in that the isolated evaluations a couple of crew leaders did of other employees' work in that case was informally and voluntarily contributed, and not a required part of their job.

Given that the Line Leaders exercise independent judgment in completing evaluations of Assembly Line Workers, that these evaluations are relied on by the Employer to award bonuses and specific merit increases, and that these evaluations directly affect both the size of a bonus (if any) and the amount of a wage increase, I find that Line Leaders effectively recommend rewarding employees through the written evaluations completed by them Trevilla of Golden Valley, 330 NLRB 1377 (2000).

Because I conclude that Line Leaders possess and exercise the authority to effectively recommend the hiring of employees through their recommendations that temporary workers be offered permanent positions after 90 days, and because I further conclude that the evaluations Line Leaders complete directly affect employee compensation, I find that Line Leaders are statutory supervisors under the Act. I therefore do not need to visit the issue of whether Line Leaders direction of others' work is more than routine.¹¹

CONCLUSION AS TO THE UNIT

Based on the foregoing, the record as a whole, and careful consideration of the arguments of the parties at the hearing and in brief, I find the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time production, maintenance, and warehouse employees and truck drivers, including the assistant to the assembly supervisor, employed at the Employer's Laurel, Maryland facility, excluding all office clerical employees, professional employees, temporary employees referred from temporary employment agencies, sales employees, assembly line leaders, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An Election by secret ballot shall be conducted by the undersigned among the employees in the voting group found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the voting group who were employed during the payroll period ending immediately preceding the date of this

¹¹ Based upon finding that Line Leaders are statutory supervisors, the Employer's motion to reopen the record and accept additional evidence is moot.

Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by the **TEAMSTERS LOCAL UNION No. 570 A/W INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO**.

LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. The request must be received by the Board in Washington by **July 5, 2002**.

Dated: June 20, 2002

At Baltimore, Maryland

(SEAL)

WAYNE R. GOLD

Regional Director, Region 5

177-8520-0800